



April 29, 2015

Dr. Stan Albrecht, President
Utah State University
1400 Old Main Hall
Logan, UT 84322

Certified Mail
Return Receipt Requested
7012 1640 0000 0215 7460

RE: **Final Program Review Determination**
OPE ID: 00367700
PRCN: 201140827633

Dear Dr. Albrecht:

The U.S. Department of Education's (Department's) Chicago/Denver School Participation Division issued a program review report on December 20, 2013 covering Utah State University's (USU) administration of programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2010/11 award year. USU's final response was received on January 24, 2014. A copy of the program review report (and related attachments) and USU's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by USU upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the outstanding findings of the program review report. The purpose of this letter is to: (1) evaluate USU's response to each finding of non-compliance, with emphasis on findings related to the institution's administration of the Clery Act, (2) notify USU of a possible adverse administrative action due to its failure to properly administer the requirements of the Clery Act, and, (3) to close the review.

Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AASG) for its consideration of possible adverse action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application. If AASG initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

This FPRD contains one or more findings regarding USU's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations in 34 C.F.R. §§ 668.41, 668.46 and 668.49. Because *Clery Act* findings do not result in a financial liabilities, such a finding may not be appealed. If an adverse administrative action is initiated, additional information about USU's appeal rights will be provided under separate cover.

Federal Student

Chicago/Denver School Participation Division
500 West Madison, Suite 1576
Chicago, IL 60661-4544

Protection of Personally Identifiable Information (PII):

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. To protect PII, the findings in the attached report do not contain any student PII. Instead, the finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A. (Student Sample). Any appendices that contain PII will be encrypted and sent separately to the institution via email.

Record Retention:

Program records relating to the period covered by the program review must be retained until the later of: resolution of the loans, claims or expenditures questioned in the program review; or the end of the retention period otherwise applicable to the record under 34 C.F.R. §§ 668.24(e)(1), (e)(2), and (e)(3).

The Department expresses its appreciation for the courtesy and cooperation extended during the review. If the institution has any questions regarding this letter, please contact Donna Sobie at (312) 730-1714.

Sincerely,



Douglas A. Parrott, Director
Chicago/Denver School Participation Division

Enclosures: Program Review Report (with student sample attachment)
USU's response to the Program Review Report
Protection of Personally Identifiable Information sheet

cc: Patti Kohler, Director of Financial Aid
Northwest Commission on Colleges & Universities
Department of Defense
Department of Veterans Affairs
Consumer Financial Protection Bureau

Federal Student

Prepared for:

Utah State University

OPE ID: 00367700

PRCN: 201140827633

Prepared by:

U.S. Department of Education

Federal Student Aid

Chicago/Denver School Participation Division

Final Program Review Determination

April 29, 2015

Chicago/Denver School Participation Division
500 West Madison, Suite 1576 Chicago, IL 60661-4544
StudentAid.gov

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A. Institutional Information

Utah State University
1400 Old Main Hill
Logan, UT 84322

Type: Public

Highest Level of Offering: Master's and Doctorate Degrees

Accrediting Agency: Northwest Commission on Colleges & Universities

Student Enrollment: 24,820 - Spring 2011

% of Students Receiving Title IV: 47% - 2011

Title IV Participation: (PEPS)

<u>Program</u>	<u>2011/12 Award Year</u>
William D. Ford Federal Direct Loan Program	\$62,157,602
Federal Pell Grant Program	36,909,982
Federal Work-Study Program	1,291,454
Federal Perkins Loan Program	1,844,836
Federal Supplemental Educational Opportunity Grant Program	919,379

Default Rate FFEL: 2011 – 4.2%
 2010 – 4.7%
 2009 – 1.9%

Default Rate Perkins: 6/30/12 – 3.1%
 6/30/11 – 5.5%
 6/30/10 – 6.2%

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Utah State University (USU) from August 23, 2011 to August 25, 2011. The review was conducted by Mitch Cary and Herschel Wallace.

The focus of the review was to determine USU's compliance with the statutes and federal regulations as they pertain to the institution's administration of the Title IV programs. The review consisted of, but was not limited to, an examination of USU's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and consumer information requirements.

A sample of 15 files was identified for review from the 2010/11 award year. The student files were selected randomly from a list of students who 1) withdrew or ceased attendance for any reason other than graduation; 2) were selected for verification; and 3) received all non-passing grades ("0" GPA) for any term within the award year being reviewed. Appendix A identifies the students whose files were examined during the program review. A program review report was issued on December 20, 2013.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning USU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve USU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

C. Findings and Final Determinations

Findings with Final Determinations

The program review report findings requiring further action or further discussion are quoted below in italics. At the conclusion of each finding is a summary of USU's response to the finding, and the Department's final determination for the finding. A copy of the program review report issued on December 20, 2013 is attached as Appendix B.

I. Ineligible Federal Pell Grant Program Disbursements Not Returned Timely

Citation: *If a student does not begin attendance in a payment period or period of enrollment the institution must return all Title IV funds that were credited to the student's account or disbursed directly to the student for that payment period or period of enrollment. 34 C.F.R. § 668.21(a)(1). If the institution is unable to document a student's attendance in any class during a payment period or period of enrollment, the student is considered not to have begun attendance in that payment period or period of enrollment. 34 C.F.R. § 668.21(c). Once an institution determines that a student has not begun attendance it must return any Title IV funds as soon as possible, but no later than 30 days after the date that it becomes aware that the student has not begun attendance. 34 C.F.R. § 668.21(b).*

Noncompliance: *USU was unable to substantiate that Student #14 attended at least one day in either of the two courses that he was registered for in the Spring 2011 term. The student was given a failing grade ("F") by instructors in both of these classes. The institution was unable to obtain confirmation of at least one day of attendance from either of the instructors of these classes. Additionally, documentation on file states the following – "unable to verify attendance, assumed 50%, did R2T4 calculation..." Accordingly, USU performed a Return of Title IV Funds calculation for the cited student using the midpoint of the term as the withdrawal date and determined that a refund in the amount of \$363 was due to the Federal Pell Grant Program. USU returned these unearned Pell funds to the Federal Pell Grant Program at the conclusion of the Spring 2011 term. However, the institution should have returned the student's entire Spring 2011 Pell disbursement in the amount of \$725 since no attendance could be verified.*

Required Action: *An analysis of USU's enrollment verification procedures, as well as discussions with institutional personnel, revealed that this was an isolated incident. However, USU will be liable for the ineligible funds that it retained for this student, as well as interest costs associated with the untimely return of the ineligible funds.*

Instructions for payment of liabilities resulting from this finding will be provided in the Department's Final Program Review Determination letter.

USU's Response: *USU concurred with the finding and indicated that the cited student's enrollment verification and subsequent Return of Title IV (R2T4) funds calculation was performed incorrectly, thus resulting in the retention of ineligible Pell funds. The institution indicated that it would wait for further instructions from the Department regarding the payment of liabilities attributable to this finding. USU also asserted that this was an isolated incident and that it has implemented an improved system of checks and balances in its R2T4 calculations*

and enrollment verification procedures, to prevent this deficiency from reoccurring.

Final Determination: USU disbursed Federal Pell Grant funds totaling \$725 to Student #14 in the Spring Term of the 2010/11 award year. The institution subsequently refunded Pell funds in the amount of \$363 on behalf of this student. USU was unable to substantiate that the student began attendance in either of the two classes for which he was registered during the time frame in which the Pell funds were attributed. As a result, the student was not eligible for any Pell funds during the Spring 2011 term. USU refunded Pell funds totaling \$363 for the Spring 2011 term. The remaining Pell balance of \$362 represents an ineligible disbursement, for which USU is liable. USU's improper retention of Title IV funds represents a financial loss to the Department. However, the Department will not establish a formal liability and request payment of this liability at this time, since the total amount is minimal. Improper retention of Title IV funds may also result in the assessment of interest penalties. In the case of this improper disbursement, the Department determined that the interest penalties are minimal. Therefore, they will not be assessed. While this deficiency appears to be an isolated incident, USU is advised to be more diligent in its review of student enrollment status and R2T4 calculations.

2. ***Annual Fire Safety Report (AFSR) Not Developed or Disseminated***

Citation: *The Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an Annual Fire Safety Report (AFSR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. §668.49(b). These institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. §668.49(c). An institution is also required to submit its fire statistics, as well as campus crime statistics, to the Secretary on an annual basis. 34 C.F.R. §668.41(e)(1)-(6).*

The AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, and any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open flames in student housing facilities; 3)

evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and, 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. §668.49(b).

The AFSR must be published and distributed as a materially-complete, comprehensive publication. If an institution chooses to combine its AFSR with its Annual Security Report and publish them as a single document, it must conspicuously identify the title of both reports on the cover page. Acceptable means of delivery include U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all current students and employees that includes a direct link to each report (exact electronic address), a description of its contents, as well as an advisement that a paper copy will be provided upon request. The Department's regulations also require participating institutions to provide a notice to all prospective students and employees that includes a statement about the AFSR's availability, the content of the report, and the exact electronic address of the report, if posted to an internet or intranet site. This notice must also advise interested parties how to obtain a paper copy of the AFSR.

Non-Compliance: *USU failed to provide documentation to reviewers substantiating that it had ever published or distributed an AFSR to current students and employees.*

USU provides students with on-campus housing facilities, therefore it is required to publish and distribute an AFSR by October 1st of each year. Based on the time frame of the review, the institution should have published and distributed its initial AFSR by October 1, 2010. This AFSR was required to contain important fire safety disclosures and to provide fire related statistics for the 2007, 2008 and 2009 calendar years. USU was unable to substantiate that this information, which is required by the Clery Act, was ever published or distributed.

Failure to publish an accurate and complete AFSR and to actively distribute it to students and employees deprives interested persons of important fire safety information to which they are entitled. Access to this information permits campus community members, especially those who live in campus housing, to make well-informed decisions about where to work and study while empowering them to make conscience decisions in their personal safety and security.

Required Action: *As a result of this violation, USU must develop and implement policies and procedures that will govern the preparation, publication, and*

distribution of the AFSR by October 1st of each year. The institution must ensure that all facets of the process are carried out in a manner that meets the requirements of the Clery Act. The procedures must also articulate how prospective students and employees will be notified of the report's availability.

Using the policies as a guide, USU must prepare and publish an accurate and complete AFSR that includes all of the statistical disclosures and policy procedure and programmatic information required under 34 C.F.R. § 668.49(b). A copy of USU's new and revised policies and procedures must accompany its response to this program review report.

USU officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) for guidance on complying with the Clery Act. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Finally, USU will be required to provide documentation to the Department evidencing the distribution of the report, as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that the institution understands all of its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. USU will be given an opportunity to develop, publish and distribute a materially complete AFSR, and in doing so, will begin to bring its overall campus fire safety program into compliance with the Clery Act, as required by its Program Participation Agreement. However, USU is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures as a result.

Based on an evaluation of all available information including the institution's response, the Department will advise USU on the next course of action regarding this serious issue of non-compliance.

USU's Response: In its official response, USU concurred with the finding and stated that remedial action was taken as directed in the program review report. University officials conceded that no 2010 AFSR was produced and that its first such report was not published until October 1, 2011 (after the Department's site visit). USU represented that its 2011 AFSR included all required policy disclosures but only two years of fire statistics (calendar years 2009 and 2010), as opposed to the required three years of statistical data. University officials also

claimed that the 2012 AFSR and all subsequent reports included the required three years of fire statistics, as required.

Per the response, the ASR and AFSR are now published as a consolidated report that is posted on the Department of Public Safety's website and the Fire Marshal's website. As noted in the response to Finding #3, USU acknowledged that the combined 2013 report was not distributed to students and employees until October 2, 2013 and October 7, 2013, respectively. The University stated that it has improved its distribution procedures to ensure that future ASRs are disseminated before the October 1st deadline. Finally, USU provided the requested certification statement attesting that the University understands its *Clery Act* obligations and is now in compliance with the terms and conditions of its PPA.

Final Determination: Finding #2 of the program review report cited USU for its failure to produce a 2010 AFSR. USU failed to provide documentation to reviewers substantiating that it had ever published or distributed an AFSR to current students and employees. As a result of this violation, the University was required to develop and implement internal policies and procedures to govern the preparation and distribution of future AFSRs. Then using its new policies and procedures as a guide, USU was required to produce an accurate and complete 2012 AFSR and then actively distribute it to students and employees. In its response, USU concurred with the finding, outlined its ongoing remedial efforts, and submitted documents in support of its claims.

The Department carefully reviewed all available documentation including USU's response and supporting documents. Based on that review, the Department has determined that the violation identified in the initial finding is sustained, namely that USU did not produce a 2010 AFSR. The University's response also showed that the 2012 report was not distributed by the October 1st deadline. Notwithstanding these violations, the review team's examination indicated that the identified violations were, for the most part, satisfactorily addressed by the University's 2012 and 2013 AFSRs and its new and revised internal policies and procedures. As such, the Department also determined that USU's remedial action plan met minimum requirements. For these reasons, the Department has accepted USU's response and considers this finding to be closed for the purposes of this program review. Nevertheless, USU is advised that it must continue to develop its fire safety program and must also take any additional action that may be needed to fully address the deficiencies identified by the Department as well as any other deficiencies or weaknesses that were detected during the preparation of the University's response and/or as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed, USU is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature

cannot be cured. There is no way to truly "correct" violations of this type once they occur. USU asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act*'s fire safety provisions as required by its PPA. The requirement to develop and implement a substantive fire safety program and to publish and distribute an AFSR containing accurate and complete fire statistics, policies, and procedures are fundamental goals of the *Clery Act*. As such, USU is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Because of the serious consequences of such violations, the Department strongly recommends that USU re-examine its campus crime, fire safety, and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with Federal requirements. To that end, USU officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2011) as a reference guide on *Clery Act* compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other *Clery Act* training resources. University officials can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the *Clery Act* can be found at 34 C.F.R. §§668.14, 668.41, 668.46, and 668.49.

3. ***Crime Awareness Requirements Not Met - Inadequate Policy Statements, Emergency Response and Evacuation Procedures and Missing Persons Notification***

Citation: *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions receiving Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) which contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).*

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1). These regulations also require institutions to provide a notice containing this information to all

prospective students and employees. This notice must inform interested parties about how to obtain a paper copy of the ASR. 34 C.F.R. § 668.41(e)(4).

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources, as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in 34 C.F.R. § 668.46(b) must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. § 668.46(b).

As stipulated under 34 C.F.R. § 668.46(g), an institution must include a statement of policy regarding its emergency response and evacuation procedures in the ASR. This statement must include the following information:

- (1) Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;*
- (2) A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification;*
- (3) A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system, unless the notification, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency;*
- (4) The positions (titles) of the individuals or organizations responsible for carrying out the assessment and emergency notification, and*
- (5) Plans to conduct a test of the emergency response and evacuation procedures on at least an annual basis.*

As stipulated under 34 C.F.R. § 668.46(h)(1), for students who reside in on-campus student housing an institution must include a statement of policy regarding the institution's missing student notification procedures in its ASR. In addition an institution must develop procedures to follow when a student is determined to have been missing for 24 hours. 34 C.F.R. § 668.46(h)(2).

Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." 34 C.F.R. § 668.41(e)(5).

Non-Compliance: *USU failed to develop, implement and conduct mandatory testing of its emergency response and evacuation procedures program. This failure deprived the institution of an opportunity to assess its readiness to respond to an emergency situation on campus. All institutions are required to conduct at least one test during each year. Tests can be announced or unannounced. Testing must be conducted in a manner that will demonstrably help the institution diagnose weaknesses in its emergency response system and formulate and implement needed improvements to the safety plan.*

USU also failed to develop and implement required policies and procedures for missing persons. USU provides on-campus housing for its students and is required by the Clery Act to implement appropriate policies and procedures. The institution must ensure that this information is disclosed in its ASR. Failure to publish an accurate and complete ASR in accordance with the Clery Act deprives students of important security information while placing students and employees at increased risk.

Required Action: *As a result of this violation, USU must review and revise its existing policies. If policy statements are missing or have not met Clery Act requirements, new policies and procedures must be established, ensuring that all aspects of the preparation, publication, and distribution of the ASR are carried out in a manner that complies with the requirements of the Clery Act.*

At a minimum, USU must perform the following corrective action:

- *Develop and implement a comprehensive emergency response and evacuation procedures program, and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR;*
- *Conduct a test of the newly developed emergency response and evacuation procedures program, and document the results of that test in accordance with the requirements of the Clery Act;*
- *Develop and implement missing person policies and procedures and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR;*

USU officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) for guidance on complying with the Clery Act. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

USU must ensure that the appropriate disclosures are published in its ASR, and that the ASR is distributed to all current students and employees in accordance with 34 C.F.R. § 668.41(e). A copy of USU's new and revised policies and procedures and its 2013 ASR must accompany the institution's response to this program review report.

Finally, USU will be required to provide documentation to the Department evidencing the distribution of the report, as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. USU must also affirm that it understands its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. USU must develop, publish and distribute a materially complete ASR, and in doing so, will begin to bring its overall campus security program into compliance with the Clery Act, and its Program Participation Agreement. USU is advised that these remedial measures cannot and do not diminish the seriousness of these violations, nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures.

Based on an evaluation of all available information including the institution's response, the Department will advise USU on the next course of action regarding this serious issue of non-compliance.

USU's Response: In its official response, USU concurred with the finding and conceded that it did not include required information about its missing person notification procedures and certain information regarding testing of its emergency response and evacuation procedures in the 2012 ASR. The University emphasized that it has produced an ASR every year since the inception of the Clery Act in 1992. In addition, USU represented that its emergency response plan has been in effect since 1996 and that it is administered by a FEMA-certified emergency manager who is charged with conducting regular tests of the system and who is authorized to make necessary system modifications. University management represented that several tests of the system were conducted in 2012 although information about the tests was not included in the ASR.

USU also stated that remedial action was taken as directed in the program review report. Per the response, required information about the University's emergency management plan was included in the 2013 ASR. In addition, University officials claimed that the 2012 ASR was revised in April 2013 to include information about its missing person notification procedures.

USU officials also acknowledged that the 2013 ASR was not distributed on or before October 1st. Specifically, University officials conceded that the required notification was not sent to students and employees until October 2nd and 7th, respectively. The University represented that it improved its distribution procedures to ensure that future ASRs are disseminated before the October 1st deadline. Finally, USU provided the requested certification statement attesting that the University understands its *Clergy Act* obligations and is now in compliance with the terms and conditions of its PPA.

Final Determination: Finding #3 of the program review report cited USU for failing to include required information about documented tests of its emergency management program and its missing student notification procedures in the 2012 ASR. As a result of this violation, the University was required to review and revise its internal policies and procedures related to *Clergy Act* compliance and develop and implement new policies and procedures as needed to ensure that its ASRs are accurate and complete and are disseminated in accordance with 34 C.F.R. §668.41. USU was also required to ensure that a comprehensive emergency response and evacuation program was in place and to conduct and document appropriate tests of the system and include information about these tests in the 2013 ASR. In its response, USU stated its concurrence with the finding and asserted that all necessary corrective action was taken to address the identified violations. The University also provided information about its existing emergency plan and submitted documents in support of its claims.

The Department carefully examined USU's narrative response and supporting documentation. Based on that review and the University's admission of noncompliance, the violations identified in the initial finding are sustained. The review team's examination also showed that these violations were, for the most part, satisfactorily addressed by USU's 2013 ASR and its new and revised internal policies and procedures. Therefore, the Department has also determined that USU's remedial action plan meets minimum requirements and for these reasons, has accepted USU's response and considers this finding to be closed for program review purposes.

Nevertheless, the officials and directors of USU are put on notice that they must take any additional action that may be needed to address the deficiencies identified by the Department as well as any violations and weaknesses that were detected during the preparation of the University's response and/or as may

otherwise be needed to ensure that these violations do not recur. In this regard, USU must immediately re-examine the missing persons notification procedure that was included in the 2014 ASR and ensure that it is accurate, complete, and compliant with Federal regulations at *34 C.F.R. §668.46(h)(ii) and (vi)*. The version of the policy included in the 2013 ASR stated that "if an on-campus resident is determined to be missing by USU Housing and Residence Life staff the University Police Department will be notified within 24 hours of that determination" and that the "University Police Department will initiate an investigation into the missing report and will involve outside law enforcement agencies as needed."

In this context, the Department notes that the Clery Act regulations state that "any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that had jurisdiction in the area." These regulations further require institution to "notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing."

Although the finding is now closed, USU is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. USU asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, USU officials must understand that the production and distribution of an accurate and complete ASR is the most basic requirement of the *Clery Act* and is fundamental to its campus safety goals. Any failure to publish and distribute an accurate and complete ASR deprives students and employees of important campus safety information to which they are entitled. For these reasons, the University is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

USU management is also reminded that Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clery Act* to require institutions to compile and disclose statistics for incidents of sexual assault, dating violence, domestic violence, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention and response in their ASRs. All institutions are currently obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and were required to include all new required content in the 2014 ASR. The Department issued Final Rules on the VAWA amendments on October 20, 2014 and therefore, these regulations will go into effect on July 1,

2015, per the Department's Master Calendar, USU officials may access the text of the Final Rule at:
<http://fap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

Finally, USU officials are strongly advised to review the accuracy and completeness of its Drug and Alcohol Abuse Prevention Program (DAAPP) as required by the Drug-Free Schools and Communities Act (*DFSCA*) and Part 86 of the Department's General Administrative Regulations. FSA is now responsible for monitoring compliance with the *DFSCA*. Therefore, it is essential that the University makes sure that it has developed and implemented a comprehensive DAAPP, produced and distributed accurate and complete program materials to the campus community, and that it has and continues to conduct substantive biennial reviews and produces biennial review reports on the required schedule. For more information about the *Clery Act* and/or the *DFSCA*, please contact your program review team or another member of the Chicago/Denver School Participation Division.

Appendix B: Program Review Report

Prepared for:

Utah State University

OPE ID: 00367700

PRCN: 201140827633

Prepared by:

U.S. Department of Education

Federal Student Aid

Chicago/Denver School Participation Division

Program Review Report

December 20, 2013

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Appendix A

A. Institutional Information

Utah State University
1400 Old Main Hill
Logan, UT 84322

Type: Public

Highest Level of Offering: Master's and Doctorate Degrees

Accrediting Agency: Northwest Commission on Colleges & Universities

Student Enrollment: 24,820 - Spring 2011

% of Students Receiving Title IV: 47% - 2011

Title IV Participation: (PEPS)

<u>Program</u>	<u>2011/12 Award Year</u>
William D. Ford Federal Direct Loan Program	\$62,157,602
Federal Pell Grant Program	36,909,982
Federal Work-Study Program	1,291,454
Federal Perkins Loan Program	1,844,836
Federal Supplemental Educational Opportunity Grant Program	919,379

Default Rate FFEL:	2011 – 4.2%
	2010 – 4.7%
	2009 – 1.9%

Default Rate Perkins:	6/30/12 – 3.1%
	6/30/11 – 5.5%
	6/30/10 – 6.2%

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Utah State University (USU) from August 23, 2011 to August 25, 2011. The review was conducted by Mitch Cary and Herschel Wallace.

The focus of the review was to determine USU's compliance with the statutes and federal regulations as they pertain to the institution's administration of the Title IV programs. The review consisted of, but was not limited to, an examination of USU's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and consumer information requirements.

A sample of 15 files was identified for review from the 2010/11 award year. The student files were selected randomly from the list of students who 1) withdrew or ceased attendance for any reason other than graduation; 2) were selected for verification; and 3) received all non-passing grades ("0" GPA) for any term within the award year being reviewed. Appendix A identifies the students whose files were examined during the program review.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning USU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve USU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

This report reflects initial findings. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination letter.

C. Findings

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by USU to bring operations of the financial aid programs into compliance with the statutes and regulations.

I. Ineligible Federal Pell Grant Program Disbursements Not Returned Timely

Citation: If a student does not begin attendance in a payment period or period of enrollment the institution must return all Title IV funds that were

credited to the student's account or disbursed directly to the student for that payment period or period of enrollment. 34 C.F.R. § 668.21(a)(1). If the institution is unable to document a student's attendance in any class during a payment period or period of enrollment, the student is considered not to have begun attendance in that payment period or period of enrollment. 34 C.F.R. § 668.21(c). Once an institution determines that a student has not begun attendance it must return any Title IV funds as soon as possible, but no later than 30 days after the date that it becomes aware that the student has not begun attendance. 34 C.F.R. § 668.21(b).

Noncompliance: USU was unable to substantiate that Student #14 attended at least one day in either of the two courses that he was registered for in the Spring 2011 term. The student was given a failing grade ("F") by instructors in both of these classes. The institution was unable to obtain confirmation of at least one day of attendance from either of the instructors of these classes. Additionally, documentation on file states the following – "unable to verify attendance, assumed 50%, did R2T4 calculation..." Accordingly, USU performed a Return of Title IV Funds calculation for the cited student using the midpoint of the term as the withdrawal date and determined that a refund in the amount of \$363 was due to the Federal Pell Grant Program. USU returned these unearned Pell funds to the Federal Pell Grant Program at the conclusion of the Spring 2011 term. However, the institution should have returned the student's entire Spring 2011 Pell disbursement in the amount of \$725 since no attendance could be verified.

Required Action: An analysis of USU's enrollment verification procedures, as well as discussions with institutional personnel, revealed that this was an isolated incident. However, USU will be liable for the ineligible funds that it retained for this student, as well as interest costs associated with the untimely return of the ineligible funds.

Instructions for payment of liabilities resulting from this finding will be provided in the Department's Final Program Review Determination letter.

2. **Annual Fire Safety Report (AFSR) Not Developed or Disseminated**

Citation: The Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an Annual Fire Safety Report (AFSR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). These institutions must disclose fire statistics for each on-campus student residential

facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. § 668.49(c). An institution is also required to submit its fire statistics, as well as campus crime statistics, to the Secretary on an annual basis. 34 C.F.R. § 668.41(c)(1)-(6).

The AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, and any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and, 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. § 668.49(b).

The AFSR must be published and distributed as a materially-complete, comprehensive publication. If an institution chooses to combine its AFSR with its Annual Security Report and publish them as a single document, it must conspicuously identify the title of both reports on the cover page. Acceptable means of delivery include U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all current students and employees that includes a direct link to each report (exact electronic address), a description of its contents, as well as an advisement that a paper copy will be provided upon request. The Department's regulations also require participating institutions to provide a notice to all prospective students and employees that includes a statement about the AFSR's availability, the content of the report, and the exact electronic address of the report, if posted to an internet or intranet site. This notice must also advise interested parties how to obtain a paper copy of the AFSR.

Non-Compliance: USU failed to provide documentation to reviewers substantiating that it had ever published or distributed an AFSR to current students and employees.

USU provides students with on-campus housing facilities, therefore it is required to publish and distribute an AFSR by October 1st of each year. Based on the time frame of the review, the institution should have published and distributed its initial AFSR by October 1, 2010. This AFSR was required to contain important fire safety disclosures and to provide fire related statistics for the 2007, 2008 and 2009 calendar years. USU was unable to substantiate that this information, which is required by the Clery Act, was ever published or distributed.

Failure to publish an accurate and complete AFSR and to actively distribute it to students and employees deprives interested persons of important fire safety information to which they are entitled. Access to this information permits campus community members, especially those who live in campus housing, to make well-informed decisions about where to work and study while empowering them to make conscience decisions in their personal safety and security.

Required Action: As a result of this violation, USU must develop and implement policies and procedures that will govern the preparation, publication, and distribution of the AFSR by October 1st of each year. The institution must ensure that all facets of the process are carried out in a manner that meets the requirements of the Clery Act. The procedures must also articulate how prospective students and employees will be notified of the report's availability.

Using the policies as a guide, USU must prepare and publish an accurate and complete AFSR that includes all of the statistical disclosures and policy, procedure and programmatic information required under 34 C.F.R. § 668.49(b). A copy of USU's new and revised policies and procedures must accompany its response to this program review report.

USU officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) for guidance on complying with the Clery Act. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Finally, USU will be required to provide documentation to the Department evidencing the distribution of the report, as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that the institution understands all

of its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. USU will be given an opportunity to develop, publish and distribute a materially complete AFSR, and in doing so, will begin to bring its overall campus fire safety program into compliance with the Clery Act, as required by its Program Participation Agreement. However, USU is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures as a result.

Based on an evaluation of all available information including the institution's response, the Department will advise USU on the next course of action regarding this serious issue of non-compliance.

3. Crime Awareness Requirements Not Met - Inadequate Policy Statements, Emergency Response and Evacuation Procedures and Missing Persons Notification

Citation: The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions receiving Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) which contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1). These regulations also require institutions to provide a notice containing this information to all prospective students and employees. This notice must inform interested parties about how to obtain a paper copy of the ASR. 34 C.F.R. § 668.41(e)(4).

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources, as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in 34 C.F.R. § 668.46(b) must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. § 668.46(b).

As stipulated under 34 C.F.R. § 668.46(g), an institution must include a statement of policy regarding its emergency response and evacuation procedures in the ASR. This statement must include the following information:

- (1) Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;
- (2) A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification;
- (3) A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system, unless the notification, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency;
- (4) The positions (titles) of the individuals or organizations responsible for carrying out the assessment and emergency notification, and
- (5) Plans to conduct a test of the emergency response and evacuation procedures on at least an annual basis.

As stipulated under 34 C.F.R. § 668.46(h)(1), for students who reside in on-campus student housing an institution must include a statement of policy regarding the institution's missing student notification procedures in its ASR. In addition an institution must develop procedures to follow when a student is determined to have been missing for 24 hours. 34 C.F.R. § 668.46(h)(2).

Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." 34 C.F.R. § 668.41(e)(5).

Non-Compliance: USU failed to develop, implement and conduct mandatory testing of its emergency response and evacuation procedures program. This failure deprived the institution of an opportunity to assess its readiness to respond to an emergency situation on campus. All institutions are required to conduct at least one test during each year. Tests can be announced or unannounced. Testing must be conducted in a manner that will demonstrably help the institution diagnose weaknesses in its emergency response system and formulate and implement needed improvements to the safety plan.

USU also failed to develop and implement required policies and procedures for missing persons. USU provides on-campus housing for its students and is required by the Clery Act to implement appropriate policies and procedures. The institution must ensure that this information is disclosed in its ASR. Failure to publish an accurate and complete ASR in accordance with the Clery Act deprives students of important security information while placing students and employees at increased risk.

Required Action: As a result of this violation, USU must review and revise its existing policies. If policy statements are missing or have not met Clery Act requirements, new policies and procedures must be established, ensuring that all aspects of the preparation, publication, and distribution of the ASR are carried out in a manner that complies with the requirements of the Clery Act.

At a minimum, USU must perform the following corrective action:

- Develop and implement a comprehensive emergency response and evacuation procedures program, and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR;
- Conduct a test of the newly developed emergency response and evacuation procedures program, and document the results of that test in accordance with the requirements of the Clery Act;

- Develop and implement missing person policies and procedures and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR:

USU officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) for guidance on complying with the Clery Act. The handbook is available online at: www.usu.edu/office-of-campus-safety/handbook.pdf. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

USU must ensure that the appropriate disclosures are published in its ASR, and that the ASR is distributed to all current students and employees in accordance with 34 C.F.R. § 668.41(e). A copy of USU's new and revised policies and procedures and its 2013 ASR must accompany the institution's response to this program review report.

Finally, USU will be required to provide documentation to the Department evidencing the distribution of the report, as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. USU must also affirm that it understands its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

- As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. USU must develop, publish and distribute a materially complete ASR, and in doing so, will begin to bring its overall campus security program into compliance with the Clery Act, and its Program Participation Agreement. USU is advised that these remedial measures cannot and do not diminish the seriousness of these violations, nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures.

Based on an evaluation of all available information including the institution's response, the Department will advise USU on the next course of action regarding this serious issue of non-compliance.

D. Appendix

Appendix A contains personally identifiable information and will be emailed to USU as an encrypted WinZip file using Advanced Encryption Standard, 256-bit. The password needed to open the encrypted WinZip file will be sent in a separate email.